

## General Assembly

## **Amendment**

January Session, 2019

LCO No. 9712



## Offered by:

SEN. LOONEY, 11th Dist.

SEN. DUFF, 25th Dist.

REP. ARESIMOWICZ, 30th Dist.

REP. RITTER M., 1st Dist.

SEN. FASANO, 34th Dist.

SEN. WITKOS, 8th Dist.

REP. KLARIDES, 114th Dist.

REP. CANDELORA, 86th Dist.

SEN. OSTEN, 19th Dist.

SEN. KUSHNER, 24th Dist.

REP. PORTER, 94th Dist.

SEN. MINER, 30th Dist.

REP. POLLETTA, 68th Dist.

REP. HALL, 7th Dist.

SEN. WINFIELD, 10th Dist.

REP. STAFSTROM, 129th Dist.

SEN. KISSEL, 7th Dist.

REP. REBIMBAS, 70th Dist.

SEN. BERGSTEIN, 36th Dist.

REP. BLUMENTHAL, 147th Dist.

SEN. BRADLEY, 23rd Dist.

REP. VERRENGIA, 20th Dist.

SEN. HWANG, 28th Dist.

REP. SREDZINSKI, 112th Dist.

REP. PAOLILLO, 97th Dist.

To: Subst. Senate Bill No. **164** File No. 362 Cal. No. 202

(As Amended by Senate Amendment Schedule "A")

"AN ACT INCLUDING CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS WITHIN THE DEFINITION OF "PERSONAL INJURY" UNDER THE WORKERS' COMPENSATION STATUTES."

- 1 Strike everything after the enacting clause and substitute the
- 2 following in lieu thereof:
- 3 "Section 1. Subdivision (16) of section 31-275 of the general statutes

4 is repealed and the following is substituted in lieu thereof (*Effective July* 5 1, 2019):

- (16) (A) "Personal injury" or "injury" includes, in addition to accidental injury that may be definitely located as to the time when and the place where the accident occurred, an injury to an employee that is causally connected with the employee's employment and is the direct result of repetitive trauma or repetitive acts incident to such employment, and occupational disease.
- 12 (B) "Personal injury" or "injury" shall not be construed to include:
  - (i) An injury to an employee that results from the employee's voluntary participation in any activity the major purpose of which is social or recreational, including, but not limited to, athletic events, parties and picnics, whether or not the employer pays some or all of the cost of such activity;
  - (ii) A mental or emotional impairment, unless such impairment (I) arises from a physical injury or occupational disease, (II) in the case of a police officer of the Division of State Police within the Department of Emergency Services and Public Protection, an organized local police department or a municipal constabulary, arises from such police officer's use of deadly force or subjection to deadly force in the line of duty, regardless of whether such police officer is physically injured, provided such police officer is the subject of an attempt by another person to cause such police officer serious physical injury or death through the use of deadly force, and such police officer reasonably believes such police officer to be the subject of such an attempt, or (III) in the case of a police officer, parole officer or firefighter, is [diagnosed as] a diagnosis of post-traumatic stress disorder [by a licensed and board certified mental health professional, determined by such professional to be originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty and not subject to any other exclusion in this section] as defined in section 2 of this act that meets all the requirements of section 2 of this act. As used in this

6 7

8

10

11

13

14

15

16

17

18

19

20

21

22

23

24

2526

27

28

29

30

31

32

33

34

clause, ["police officer" means a member of the Division of State Police within the Department of Emergency Services and Public Protection, an organized local police department or a municipal constabulary, "firefighter" means a uniformed member of a municipal paid or volunteer fire department, and] "in the line of duty" means any action that a police officer [or firefighter] is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the police officer or firefighter is compensated by the public entity such officer serves;

- (iii) A mental or emotional impairment that results from a personnel action, including, but not limited to, a transfer, promotion, demotion or termination; or
  - (iv) Notwithstanding the provisions of subparagraph (B)(i) of this subdivision, "personal injury" or "injury" includes injuries to employees of local or regional boards of education resulting from participation in a school-sponsored activity but does not include any injury incurred while going to or from such activity. As used in this clause, "school-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property and "participation" means acting as a chaperone, advisor, supervisor or instructor at the request of an administrator with supervisory authority over the employee.
- 59 Sec. 2. (NEW) (*Effective July 1, 2019*) (a) As used in this section:
- (1) "Firefighter" has the same meaning as provided in section 7-313gof the general statutes;
  - (2) "In the line of duty" means any action that a police officer, parole officer or firefighter is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the officer or firefighter is compensated by the public entity such officer or firefighter serves, except that, in the case of a volunteer firefighter, such action or service constitutes fire duties, as defined in

- 68 subsection (b) of section 7-314b of the general statutes;
- 69 (3) "Mental health professional" means a board-certified psychiatrist 70 or a psychologist licensed pursuant to chapter 383 of the general 71 statutes, who has experience diagnosing and treating post-traumatic
- 72 stress disorder;
- 73 (4) "Parole officer" means an employee of the Department of
- 74 Correction who supervises inmates in the community after their
- 75 release from prison on parole or under another prison release
- 76 program;
- 77 (5) "Police officer" has the same meaning as provided in section 7-
- 78 294a of the general statutes, except that "police officer" does not
- 79 include an officer of a law enforcement unit of the Mashantucket
- 80 Pequot Tribe or the Mohegan Tribe of Indians of Connecticut;
- 81 (6) "Post-traumatic stress disorder" means a disorder that meets the
- 82 diagnostic criteria for post-traumatic stress disorder as specified in the
- 83 most recent edition of the American Psychiatric Association's
- 84 "Diagnostic and Statistical Manual of Mental Disorders"; and
- 85 (7) "Qualifying event" means an event occurring in the line of duty
- 86 on or after July 1, 2019, in which a police officer, parole officer or
- 87 firefighter:
- 88 (A) Views a deceased minor;
- 89 (B) Witnesses the death of a person or an incident involving the
- 90 death of a person;
- 91 (C) Witnesses an injury to a person who subsequently dies before or
- 92 upon admission at a hospital as a result of the injury and not as a result
- 93 of any other intervening cause;
- 94 (D) Has physical contact with and treats an injured person who
- 95 subsequently dies before or upon admission at a hospital as a result of
- 96 the injury and not as a result of any other intervening cause;

97 (E) Carries an injured person who subsequently dies before or upon 98 admission at a hospital as a result of the injury and not as a result of 99 any other intervening cause; or

- (F) Witnesses a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in permanent disfigurement of the victim.
- (b) A diagnosis of post-traumatic stress disorder is compensable as a personal injury as described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-275 of the general statutes, as amended by this act, if a mental health professional examines a police officer, parole officer or firefighter and diagnoses the officer or firefighter with post-traumatic stress disorder as a direct result of a qualifying event, provided (1) the post-traumatic stress disorder resulted from the officer or firefighter acting in the line of duty and, in the case of a firefighter, such firefighter complied with Federal Occupational Safety and Health Act standards adopted pursuant to 29 CFR 1910.134 and 29 CFR 1910.156, (2) a qualifying event was a substantial factor in causing the disorder, (3) such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder, and (4) the post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action of the officer or firefighter. Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including, but not limited to, guidelines on release of past or contemporaneous medical records.
  - (c) Whenever liability to pay compensation is contested by the employer, the employer shall file with the commissioner, on or before the twenty-eighth day after the employer has received a written notice of claim, a notice in accordance with a form prescribed by the chairperson of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury and the specific

100

101

102

103

104

105

106

107

108

109

110

111112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with section 31-321 of the general statutes. If the employer or the employer's legal representative fails to file the notice contesting liability on or before the twenty-eighth day after receiving the written notice of claim, the employer shall commence payment of compensation for such injury on or before the twenty-eighth day after receiving the written notice of claim, but the employer may contest the employee's right to receive compensation on any grounds or the extent of the employee's disability within one hundred eighty days from the receipt of the written notice of claim and any benefits paid during the one hundred eighty days shall be considered payments without prejudice, provided the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with section 31-321 of the general statutes or when the written notice of claim fails to include a warning that the employer (1) if the employer has commenced payment for the alleged injury on or before the twenty-eighth day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one hundred eighty days from the receipt of the written notice of claim, and (2) shall be conclusively presumed to have accepted the compensability of the alleged injury unless the employer either files a notice contesting liability on or before the twenty-eighth day after receiving a written notice of claim or commences payment for the alleged injury on or before such twenty-eighth day. An employer shall be entitled, if the employer prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the commissioner receives written notice from the employer or the employer's legal representative, in accordance with the form prescribed by the chairperson of the Workers' Compensation Commission, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury on or before the twentyeighth day after receiving a written notice of claim and who fails to

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

165166

167

168169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

commence payment for the alleged injury on or before such twenty-eighth day, shall be conclusively presumed to have accepted the compensability of the alleged injury. If an employer has opted to post an address of where notice of a claim for compensation by an employee shall be sent, as described in subsection (a) of section 31-294c of the general statutes, the twenty-eight-day period set forth in this subsection shall begin on the date when such employer receives written notice of a claim for compensation at such posted address.

(d) Notwithstanding any provision of chapter 568 of the general statutes, workers' compensation benefits for any police officer, parole officer or firefighter for a personal injury described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-275 of the general statutes, as amended by this act, shall (1) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under section 31-307 of the general statutes and temporary partial incapacity benefits under subsection (a) of section 31-308 of the general statutes, and (2) be provided for a maximum of fifty-two weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under section 31-307 of the general statutes or temporary partial incapacity benefits under subsection (a) of section 31-308 of the general statutes shall be awarded beyond four years from the date of the qualifying event that formed the basis for the personal injury. The weekly benefits received by an officer or a firefighter pursuant to section 31-307 of the general statutes or subsection (a) of section 31-308 of the general statutes, when combined with other benefits including, but not limited to, contributory and noncontributory retirement benefits, Social Security benefits, benefits under a long-term or shortterm disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such officer or firefighter. An officer or firefighter receiving benefits pursuant to this subsection shall not be entitled to benefits pursuant to subsection (b) of section 31-308 of the general statutes or section 31-308a of the general statutes.

198 Sec. 3. Section 31-294h of the general statutes is repealed and the

199 following is substituted in lieu thereof (*Effective July 1, 2019*):

200

201

202

203

204

205

206

207

208

209

210211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

any provision of this chapter, Notwithstanding workers' compensation benefits for any [(1)] police officer, as [defined] described in subparagraph [(B)(ii)] (B)(ii)(II) of subdivision (16) of section 31-275, as amended by this act, who suffers a mental or emotional impairment arising from such police officer's use of deadly force or subjection to deadly force in the line of duty, [or (2) firefighter, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275, who suffers a mental or emotional impairment diagnosed as posttraumatic stress disorder originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty, shall be limited to treatment by a psychologist or a psychiatrist who is on the approved list of practicing physicians established by the [chairman] chairperson of the Workers' Compensation Commission pursuant to section 31-280.

Sec. 4. (NEW) (Effective October 1, 2019) (a) No law enforcement unit, as defined in section 7-294a of the general statutes, shall discharge, discipline, discriminate against or otherwise penalize a police officer, as defined in section 7-294a of the general statutes, who is employed by such law enforcement unit solely because the police officer seeks or receives mental health care services or surrenders his or her firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties to such law enforcement unit during the time the police officer receives mental health care services. The provisions of this subsection shall not be applicable to a police officer who (1) seeks or receives mental health care services to avoid disciplinary action by such law enforcement unit, or (2) refuses to submit himself or herself to an examination as provided in subsection (b) of this section.

(b) Prior to returning to a police officer his or her surrendered firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties, such law enforcement unit shall request the police officer to submit himself or herself to an

examination by a mental health professional, as defined in section 2 of this act. The examination shall be performed to determine whether the police officer is ready to report for official duty and shall be paid for by such law enforcement unit.

- (c) No civil action may be brought against a law enforcement unit for damages arising from an act or omission of a police officer employed by the unit with respect to the officer's use of his or her personal firearm, if (1) the officer seeks or receives mental health care services and surrenders to such unit his or her firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties, and (2) such act or omission occurs during the time period the officer has surrendered his or her firearm, ammunition or electronic defense weapon or within six months of the date of surrendering his or her firearm, ammunition or electronic defense weapon, whichever is longer.
- Sec. 5. Section 53a-217 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
  - (a) A person is guilty of criminal possession of a firearm, ammunition or an electronic defense weapon when such person possesses a firearm, ammunition or an electronic defense weapon and (1) has been convicted of a felony committed prior to, on or after October 1, 2013, or of a violation of section 21a-279, 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d committed on or after October 1, 2013, (2) has been convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120, (3) has been discharged from custody within the preceding twenty years after having been found not guilty of a crime by reason of mental disease or defect pursuant to section 53a-13, (4) knows that such person is subject to (A) a restraining or protective order of a court of this state that has been issued against such person, after notice has been provided to such person, in a case involving the use, attempted use or threatened use of physical force against another person, or (B) a foreign order of protection, as defined in section 46b-

236

237

238

239

240

241

242

243

244

245

246

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

15a, that has been issued against such person in a case involving the use, attempted use or threatened use of physical force against another person, (5) (A) has been confined on or after October 1, 2013, in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding sixty months by order of a probate court, or with respect to any person who holds a valid permit or certificate that was issued or renewed under the provisions of section 29-28 or 29-36f in effect prior to October 1, 2013, such person has been confined in such hospital within the preceding twelve months, or (B) has been voluntarily admitted on or after October 1, 2013, to a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding six months for care and treatment of a psychiatric disability, [and not] unless the person (i) was voluntarily admitted solely for being an alcohol-dependent person or a drug-dependent person as those terms are defined in section 17a-680, or (ii) is a police officer who was voluntarily admitted and had his or her firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties returned in accordance with section 4 of this act, (6) knows that such person is subject to a firearms seizure order issued pursuant to subsection (d) of section 29-38c after notice and an opportunity to be heard has been provided to such person, or (7) is prohibited from shipping, transporting, possessing or receiving a firearm pursuant to 18 USC 922(g)(4). For the purposes of this section, "convicted" means having a judgment of conviction entered by a court of competent jurisdiction, "ammunition" means a loaded cartridge, consisting of a primed case, propellant or projectile, designed for use in any firearm, and a motor vehicle violation for which a sentence to a term of imprisonment of more than one year may be imposed shall be deemed an unclassified felony.

(b) Criminal possession of a firearm, ammunition or an electronic defense weapon is a class C felony, for which two years of the sentence imposed may not be suspended or reduced by the court, and five thousand dollars of the fine imposed may not be remitted or reduced by the court unless the court states on the record its reasons for

265

266

267

268269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285286

287

288

289

290

291

292

293

294

295

296

297

299 remitting or reducing such fine.

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

Sec. 6. Section 53a-217c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(a) A person is guilty of criminal possession of a pistol or revolver when such person possesses a pistol or revolver, as defined in section 29-27, and (1) has been convicted of a felony committed prior to, on or after October 1, 2013, or of a violation of section 21a-279, 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d committed on or after October 1, 1994, (2) has been convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120, (3) has been discharged from custody within the preceding twenty years after having been found not guilty of a crime by reason of mental disease or defect pursuant to section 53a-13, (4) (A) has been confined prior to October 1, 2013, in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding twelve months by order of a probate court, or has been confined on or after October 1, 2013, in a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding sixty months by order of a probate court, or, with respect to any person who holds a valid permit or certificate that was issued or renewed under the provisions of section 29-28 or 29-36f in effect prior to October 1, 2013, such person has been confined in such hospital within the preceding twelve months, or (B) has been voluntarily admitted on or after October 1, 2013, to a hospital for persons with psychiatric disabilities, as defined in section 17a-495, within the preceding six months for care and treatment of a psychiatric disability, [and not] unless the person (i) was voluntarily admitted solely for being an alcohol-dependent person or a drug-dependent person as those terms are defined in section 17a-680, or (ii) is a police officer who was voluntarily admitted and had his or her firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties returned in accordance with section 4 of this act, (5) knows that such person is subject to (A) a restraining or protective order of a court of this state that has been issued against such person,

after notice has been provided to such person, in a case involving the use, attempted use or threatened use of physical force against another person, or (B) a foreign order of protection, as defined in section 46b-15a, that has been issued against such person in a case involving the use, attempted use or threatened use of physical force against another person, (6) knows that such person is subject to a firearms seizure order issued pursuant to subsection (d) of section 29-38c after notice and an opportunity to be heard has been provided to such person, (7) is prohibited from shipping, transporting, possessing or receiving a firearm pursuant to 18 USC 922(g)(4), or (8) is an alien illegally or unlawfully in the United States. For the purposes of this section, "convicted" means having a judgment of conviction entered by a court of competent jurisdiction.

- (b) Criminal possession of a pistol or revolver is a class C felony, for which two years of the sentence imposed may not be suspended or reduced by the court, and five thousand dollars of the fine imposed may not be remitted or reduced by the court unless the court states on the record its reasons for remitting or reducing such fine.
- Sec. 7. (NEW) (*Effective July 1, 2019*) (a) Not later than January 1, 2020, the Police Officer Standards and Training Council, established under section 7-294b of the general statutes, the Department of Correction and the Commission on Fire Prevention and Control shall develop and promulgate a model critical incident and peer support policy to support the mental health care and wellness of police officers, as defined in section 7-294a of the general statutes, parole officers, as defined in section 2 of this act, and firefighters, as defined in section 2 of this act.
  - (b) Not later than July 1, 2020, each law enforcement unit as defined in section 7-294a of the general statutes, the Department of Correction as employer of parole officers, each municipal or state paid or volunteer fire department and each municipal entity employing a fire marshal, deputy fire marshal, fire investigator, fire inspector or other class of investigator or inspector for whom the State Fire Marshal and

the Codes and Standards Committee, acting jointly, have adopted 366 367 minimum standards of qualification pursuant to section 29-298 of the 368 general statutes, shall (1) adopt and maintain a written policy that 369 meets or exceeds the standards of the model policy developed 370 pursuant to subsection (a) of this section; (2) make peer support 371 available to such officers and firefighters; and (3) refer an officer or 372 firefighter, as appropriate, seeking mental health care services to a 373 mental health professional, as defined in section 2 of this act.

- 374 Sec. 8. (NEW) (Effective July 1, 2019) Each police basic training 375 program conducted or administered by the Division of State Police 376 within the Department of Emergency Services and Public Protection, 377 the Police Officer Standards and Training Council established under 378 section 7-294b of the general statutes or a municipal police department 379 in this state shall provide, in consultation with the Department of 380 Mental Health and Addiction Services, resilience and self-care 381 technique training for any individual who begins basic training as a 382 police officer, as defined in section 7-294a of the general statutes, on or 383 after January 1, 2020.
- Sec. 9. (NEW) (*Effective July 1, 2019*) In consultation with the Department of Mental Health and Addiction Services, the Department of Correction shall provide resilience and self-care technique training for each parole officer, as defined in section 2 of this act, hired on or after January 1, 2020.
- 389 Sec. 10. (NEW) (Effective July 1, 2019) In consultation with the 390 Department of Mental Health and Addiction Services, the Commission 391 on Fire Prevention and Control, the State Fire Marshal and the Codes 392 and Standards Committee and any other state or municipal entity 393 providing training to a firefighter, as defined in section 2 of this act, 394 shall provide resilience and self-care technique training for any 395 individual who begins initial training as a firefighter on or after 396 January 1, 2020.
- 397 Sec. 11. (NEW) (Effective July 1, 2019) Not later than December 1,

398 2020, the chairperson of the Workers' Compensation Commission shall 399 report on the number of claims filed with the commission for benefits 400 for post-traumatic stress disorder pursuant to section 2 of this act. The 401 chairperson shall submit such report, in accordance with the 402 provisions of section 11-4a of the general statutes, to the joint standing 403 committees of the General Assembly having cognizance of matters relating to the judiciary, labor and public employees and public safety 404 405 and security.

Sec. 12. Section 2 of substitute senate bill 921 of the current session is repealed. (*Effective June 30, 2019*)"

This act shall take effect as follows and shall amend the following		
sections:		
Section 1	July 1, 2019	31-275(16)
Sec. 2	July 1, 2019	New section
Sec. 3	July 1, 2019	31-294h
Sec. 4	October 1, 2019	New section
Sec. 5	October 1, 2019	53a-217
Sec. 6	October 1, 2019	53a-217c
Sec. 7	July 1, 2019	New section
Sec. 8	July 1, 2019	New section
Sec. 9	July 1, 2019	New section
Sec. 10	July 1, 2019	New section
Sec. 11	July 1, 2019	New section
Sec. 12	June 30, 2019	Repealer section